

## The Legal News.

VOL. IV. JULY 2, 1881. No. 27.

### CAPITAL PUNISHMENT IN FOREIGN COUNTRIES.

Of all suggestions for the reformation of our legal system none, perhaps, is more certain to recur, when an opportunity presents itself, than that respecting the abolition of capital punishment. It is satisfactory, therefore, to find that the Government, appreciating the importance of the question, have taken measures to elucidate the matter by ascertaining the law of homicide as administered by other nations, and that, with this view, our foreign office, in July last, addressed a circular to Her Majesty's Representatives at foreign courts, directing them to procure the required information and statistics. The results of these inquiries are now placed before Parliament in the form of a white book of some sixty pages, which amply repay perusal.

Commencing in alphabetical order, Austria is the first country dealt with in the report. While under the Penal Code of 1852, which is still in force, capital punishment may be inflicted for murder, and similar crimes, and during the ten years preceding 1880 more than 800 death sentences were pronounced, the statistics show that no more than sixteen of the latter were actually carried out. In Hungary, also, the crime of murder is punishable with death, but by the new penal code of that country, which came into effect September last, it is expressly provided that in mitigating circumstances the penalty may be reduced to penal servitude. In Bavaria and in Belgium the punishment is retained, but in practice can hardly be said to exist. In the former of these countries, we are told, the sentence of death is rarely carried out, "as the king usually by royal clemency changes that punishment into one of penal servitude for life," and, in fact, during ten years, although 128 persons have been condemned to death, only seven executions have taken place. In Belgium the royal prerogative is still more freely exercised, for since the accession of the present king to the throne not

a single criminal has been executed, "it being impossible to obtain His Majesty's signature to a death warrant."

A similar report is sent from Denmark. No sentence of death in that country is considered definitive until it has been confirmed by the Supreme Court at Copenhagen, considered by the Council of Ministers, and finally submitted to the king; and, although it is stated that, "as a rule, a conviction of murder with premeditation, or of wilful murder without any extenuating circumstances, would be followed by a sentence of death," capital punishment has not been inflicted more than once or twice since 1863.

Under the French penal code, again, which has, in this respect, remained unmodified since 1810, the penalty of death is enforceable in the case of murder, when premeditated or accompanied by some other crime, but in the year 1878—and other years, it is said, would yield similar results—only four out of 125 convicted criminals were sentenced to capital punishment.

German statistics are no less significant. While, on the one hand, between 1869 and 1878, as many as 484 persons were in Prussia alone condemned to death, on the other hand, Lord Odo Russell reports that he has "every reason to believe that during the above mentioned period the only criminal executed was Hodel, the man who fired at the Emperor in 1878." "The fact," he adds, "is that his Imperial Majesty has so strong an objection to signing death warrants that, notwithstanding his stern sense of duty, it would be almost impossible to obtain his signature for the purpose, and this circumstance has become so well known, that in passing sentence of death a judge would now feel that he was doing no more than recording it, and that it would be commuted to one of penal servitude for life, or perhaps to one of even less severity."

The law of Russia presents an exception to the penal system already referred to, for in that country the punishment of death has in theory ceased to exist. It was abolished virtually, we are told, in 1741 by the Empress Elizabeth, who refused to confirm the sentences; but the Empress Catherine, in 1767, introduced its abolition into the penal code for all cases except those of high treason. In one part, however, of the Russian Empire—the Grand